

ONE HUNDRED ONE NORTH CARSON STREET
CARSON CITY, NEVADA 89701
OFFICE: (775) 684-5670
FAX NO.: (775) 684-5683



555 EAST WASHINGTON AVENUE, SUITE 5100
LAS VEGAS, NEVADA 89101
OFFICE: (702) 486-2500
FAX NO.: (702) 486-2505

Office of the Governor

April 20, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: CERCLA Section 108(b) Financial Assurance Rulemaking

Dear Administrator Pruitt:

I appreciate the working relationship we have developed over your tenure so far, and I am looking forward to our meeting next week to continue our conversation about working together to rebalance the state-federal relationship. As we discussed in our recent telephone call, I am very concerned about EPA's proposed rule that would impose Superfund financial assurance obligations on the hardrock mining industry. As you lead the Agency during an era of tight budgets and competing priorities, your careful review of this rulemaking is particularly timely.

Nevada's regulatory programs are considered to be the best in the nation; in coordination with federal land managers, Nevada imposes requirements that minimize the risk of releases of contaminants to the environment and ensure that any releases that do occur will be detected promptly and remediated. As required by those programs, Nevada mining companies collectively hold billions of dollars in financial assurance instruments required by the State, and/or by the federal land management agencies to cover reclamation, closure, and spills and releases during operations.

The proposed EPA rule would duplicate these federal and state protections, and could even preempt our state program entirely. Meanwhile, EPA itself estimates that compliance with the EPA rule would cost Nevada mining companies hundreds of millions of dollars. Because of the rules and financial assurance requirements already in place, the new EPA rule would result in no additional environmental benefits or reduction of risk. Furthermore, EPA proposed its rule without prior meaningful consultation with states, Tribes or federal land management agencies.

This is a matter of great concern to me, as Governor of a state where mining is one of the largest industries and generates thousands of excellent, high-paying jobs. Nevada is one of the largest producers of gold in the world, and also is home to the only active commercial lithium mine in the United States. These mining jobs are especially valued in Nevada's rural counties, where they support vibrant small towns, attract highly educated residents, raise living standards and help diversify and stimulate local economies.

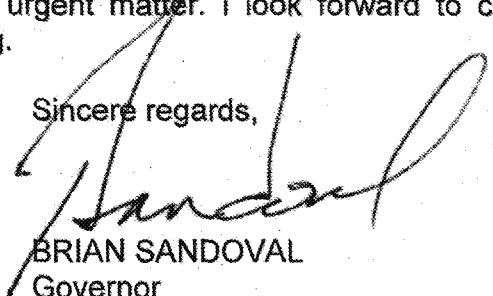
Nevada was the first state to adopt a comprehensive closure and reclamation requirement for hardrock mines, and to require financial guarantees. Our reclamation law was enacted in 1989, and over the years since then, we have changed and improved what we do to make sure that mines are operated, reclaimed, and closed in a way that minimizes risks to the environment. In fact, Nevada's Standardized Reclamation Cost Estimator is considered state-of-the-art, and is used by other states to calculate financial assurance obligations.

As you know, EPA is undertaking the CERCLA 108(b) rulemaking in response to a settlement it negotiated with environmental groups with a court-ordered deadline of December 1, 2017. I appreciate and respect the demands placed on your staff by this court-ordered process. But while struggling to meet court deadlines, EPA has not fully understood and taken into account existing mining regulations and financial assurance requirements imposed by states and sister federal agencies, nor has any member of the rulemaking team ever visited a hardrock mine to see these regulations and requirements effectively applied, despite repeated invitations by Nevada mining companies and members of the Nevada congressional delegation. I would like to invite you to come to Nevada and join me on a visit to one of our mines to see firsthand how Nevada already has the right procedures and regulations in place.

As you know, states do not always feel their concerns are heard when federal agencies adopt rules that will have significant impacts on states. For Nevada, this is one of those cases. We believe that EPA could benefit from listening to states' concerns about the CERCLA rule. There is still time for EPA to hear and act on these concerns, and I urge EPA to take the opportunity. Now is the time for EPA to consider whether the CERCLA financial assurance rule is really necessary for this industry.

Thank you for your attention to this urgent matter. I look forward to continuing this conversation next week at our meeting.

Sincere regards,



BRIAN SANDOVAL
Governor